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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,308

02/02/2006

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F-8844

6643

28107 7590 12/01/2009  
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EXAMINER

COOLEY, CHARLES E

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

12/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,308	<b>Applicant(s)</b> KAMIMURA ET AL.	
	<b>Examiner</b> Charles E. Cooley	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

## **NON-FINAL OFFICE ACTION AFTER RCE**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9 NOV 2009 has been entered.

### ***Priority***

2. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All of the CERTIFIED copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### ***Drawings***

3. The replacement sheets of drawings filed 9 FEB 2009 are approved.

### ***Claim Objections***

4. Claim 1 is objected to under 37 CFR 1.121 because language was added to the last two lines of the claim without the required underlining.

Correction is required.

***Claim Rejections - 35 U.S.C. § 112, second paragraph***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. New claims 5, 6, and 7/5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The second paragraph of 35 U.S.C. § 112 requires a claim to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Under *In re Hammack*, 427 F.2d 1378, 166 USPQ 204 (CCPA 1970) and *In re Moore*, 169 USPQ 236 (CCPA 1971), claims must be analyzed to determine their metes and bounds so that it is clear from the claim language what subject matter the claims encompass. This analysis must be performed in light of the applicable prior art and the disclosure. The definiteness of the claims is important to allow others who wish to enter the market place to ascertain the boundaries of protection that are provided by the claims. *Ex parte Kristensen*, 10 USPQ 2d 1701, 1703 (BPAI 1989).

One of the purposes of 35 U.S.C. § 112, second paragraph, “is to provide those who would endeavor, in future enterprise, to approach the area circumscribed by the claims of a patent, with adequate notice demanded by due process of law, so that they may more readily and accurately determine the boundaries of protection involved and evaluate the possibility of infringement and dominance.” *In re Hammack*, supra. As set

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forth in *Amgen Inc. v. Chugai Pharmaceutical Co., Ltd.*, 927 F.2d 1200, 1217, 18

USPQ2d 1016, 1030 (Fed. Cir. 1991).

The statute requires that "[t]he specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention." A decision as to whether a claim is invalid under this provision requires a determination whether those skilled in the art would understand what is claimed. See *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 USPQ 634, 641 (Fed. Cir. 1985) (claims must "reasonably apprise those skilled in the art" as to their scope and be "as precise as the subject matter permits.").

7. The pending claims fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention and are therefore of indeterminate scope for the following reasons:

Claims 5 and 6 are of indeterminate scope because it is not clear if the "pumps" are positively recited elements of these claims. If so, the pumps should be positively recited. Since it appears the pumps are met to be elements of the claims, commensurate with the remarks, these claims are being treated on the merits as if the pumps are elements of the claims. If the claims are drafted to remove the liquid feeding pumps from the scope of the claims, the examiner reserves the right to reconsider the patentability of these claims (see section (17) below). These claims are further vague and lack clarity in that the structural cooperation of the back pressure valve and the other recited elements is unclear - where is the back pressure valve located? By inference, it appears this valve is located in the mixing line (e.g., see claim 1), however, this is not clear.

***Claim Rejections - 35 USC § 102***

8. The terms used in this respect are given their broadest reasonable interpretation in their ordinary usage in context as they would be understood by one of ordinary skill in the art, in light of the written description in the specification, including the drawings, without reading into the claim any disclosed limitation or particular embodiment. See, e.g., *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000); *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321-22 (Fed. Cir. 1989).

The Examiner interprets claims as broadly as reasonable in view of the specification, but does not read limitations from the specification into a claim. *Elekta Instr. S.A.v.O.U.R. Sci. Int'l, Inc.*, 214 F.3d 1302, 1307 (Fed. Cir. 2000). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lubitzsch et al. (US 4,219,038).**

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The patent to Lubitzsch et al. discloses a fluid mixer in Figure 1 for pressure feeding by fluids flowing through at least two supply lines 1, 2 to a mixing line 12 at an arbitrary ratio; each supply line 1, 2 comprising a diaphragm 7, 8 for adjusting the flow rate of the fluids provided on the upstream side from a point where said at least two supply lines are merged to the mixing line; pressure reducing valves 5, 6 further upstream side of said diaphragm 7, 8 and in series therewith; and a back pressure valve 13 in said mixing line 12; wherein a fixed orifice or a regulating valve is used for the diaphragms 7, 8 (col. 4, lines 40-41); wherein the pressure reducing valves 5, 6 and the back pressure valve 13 are automatic valves controlled via control line 14.

The element 13 is deemed equivalent to the recited back pressure valve in that the element 13 keeps the pressure in the supply lines 1, 2 downstream of valves 7, 8 equal and constant (therefore acting to absorb any pressure fluctuations) and also keeps the pressure on the upstream side constant (see at least col. 2, l. 54-65; col. 3, l. 10-12 and l. 33-66; col. 4, l. 4-10 and l. 40-60; col. 5, l. 1-13; and see claim 1 relating to the constant admission pressure regulator means 13). Varying back pressures downstream of the element 13 do not affect the mixture in the mixture line 12 (col. 3, lines 10-12). With the addition of a control line 14 (seen as a dashed line in Fig. 1 between 6 and 13), the element 13 may be opened or closed and thus acts as a valve (see col. 3, l. 37-43). Accordingly, the element 13 located in the mixing line 12 can be considered equivalent to the recited "back pressure valve" recited in claim 1.

***Claim Rejections - 35 USC § 103***

11. To determine whether subject matter would have been obvious, "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved .... Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented."

*Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966).

The Supreme Court has noted:

Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.

*KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740-41 (2007). "Under the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." (Id. at 1742).

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. **Claim 1 is rejected under 35 U.S.C. 102(b) ) as being unpatentable over by Lubitzsch et al. (US 4,219,038) in view of Krueger (US 4,171,191).**

Assuming, *arguendo*, that Lubitzsch et al. does not disclose the element 13 being a back pressure valve, the patent to Krueger discloses a fluid mixer in Figure 1 for pressure feeding by fluids flowing through at least two supply lines 48, 50 to a mixing line 52 at a ratio; and a back pressure valve 62 in said mixing line 52. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made to have substituted the element 13 in Lubitzsch et al. with a back pressure valve

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in the mixing line as taught by Krueger for the purposes of maintaining the same pressure on the material at the mixing line, to control the pressure of the materials, and to ensure the back pressure of the material in the mixing line always exceeds the pressure of the material at the source (col. 2, lines 4-7 and lines 12-15 and col. 4, lines 11-14).

**15. Claims 2-3 and 7/2-7/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Lubitzsch et al. (US 4,219,038) OR Lubitzsch et al. (US 4,219,038) in view of Krueger (US 4,171,191) as applied to claim 1 above and further in view of Bartlett, Jr. (US 6,280,692 B1).**

Lubitzsch et al. or Lubitzsch et al. in view of Krueger discloses the recited subject matter as noted above including a back pressure valve 13 on the mixing line 12 and wherein the pressure reducing valves 5, 6 and the back pressure valve 13 are automatic valves controlled via control line 14 but does not disclose the flow meter in the mixing line. The patent to Bartlett, Jr. discloses a fluid mixer system for pressure feeding fluids flowing through at least two supply lines 4, 12 to a mixing line 11, 18 having a mixer 11 at the merging point of the supply lines. A back pressure valve 20 and a flow meter 19 are arranged in series in the mixing line downstream of the merging point. It would have been obvious and mere common sense to one having ordinary skill in the art, at the time applicant's invention was made, to have provided the fluid mixer system of Lubitzsch et al. with a flow meter in the mixing line in series with the existing back pressure valve as taught by Bartlett, Jr. for the purpose of enabling monitoring of

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the entire system (col. 8, lines 35-46). Note Bartlett, Jr. teaches that the flow meter 19 can be either upstream or downstream of the back pressure valve 20 (col. 8, lines 37-55).

### ***Response to Amendment***

16. Applicant's arguments filed 9 NOV 2009 have been fully considered but they are not persuasive.

Applicant is reminded that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention, either explicitly or inherently. See *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Turning to the rejection of the claims under 35 U.S.C. § 102(b), it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims

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(*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)).

Anticipation under 35 U.S.C. § 102(b) is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re*

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*Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

With respect to the applied prior art under 35 U.S.C. § 102(b), the examiner has explicitly demonstrated how the reference discloses each and every element set forth in the claims and how the pending claims read on the disclosure of the reference, hence the rejection is considered proper.

Applicant asserts that the valve of Lubitzsch et al. is not a back pressure valve, “as that term would be understood by one skilled in the art in light of Applicant’s specification.” Applicant’s position on this point is considered to be speculative attorney’s argument unsupported by objective technical evidence on the issue. Arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Pearson*, 494 F.2d 1399, 1405, 181 USPQ 641, 646 (CCPA 1974).

With regard to the flow meter, the patent to Bartlett, Jr. discloses an analogous fluid mixer system for pressure feeding fluids flowing through at least two supply lines 4, 12 to a mixing line 11, 18 having a mixer 11 at the merging point of the supply lines wherein a back pressure valve 20 and a flow meter 19 are arranged in series in the mixing line downstream of the merging point. Thus, to provide the fluid mixer system of Lubitzsch et al. with a flow meter in the mixing line in series with the existing back pressure valve as taught by Bartlett, Jr. for the purpose of enabling monitoring of the entire system would have been prima facie obvious. Applicant’s remarks refer to

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changing flow rate and adjustment of fluid mixing ratio, yet this language does not appear in the claims and recites no structure whatsoever that may define over the prior art. Such arguments are of no patentable consequence because it is well settled that features not claimed may not be relied upon in support of patentability. *In re Self*, 671 F.2d 1344, 213 USPQ 1 (CCPA 1982). Although a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim. Accordingly, the examiner believes the addition of a notoriously well known flow meter in such fluid mixing systems for monitoring the flow of the materials being processed is well within the realm of obviousness.

Applicant's primary argument filed 9 NOV 2009 again is that Lubitzsch et al. (US 4,219,038) does not disclose the back pressure valve in the mixing line. However, the term "valve" is indeed a broad term in the fluid handling art and is considered of a scope to encompass many fluid control devices. Other than a box labeled as "9" in the instant application, no other structure is disclosed or recited relating to this valve. Since element 13 in Lubitzsch et al. performs the functions attributed to the disclosed back pressure valve 9 (e.g., see p. 9, l. 28 – p. 10, l. 2 of the instant specification) and may indeed act or be controlled as a valve as noted above, the examiner concludes element 14 is equivalent to the broadly claimed back pressure valve. Although no peculiar

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structure is associated with the back pressure valve to define over the prior art, the element 13, within the four corners of the patent, is reasonably deemed a back pressure valve within the broad scope of claim 1 for the reasons set forth above. Moreover, Lubitzsch et al. specifically discloses at col. 3, lines 10-12 that varying back pressure downstream of the element 13 does not affect the mixture in the mixing line since the common mixing line is under constant pressure. The element 13 controls the pressure on the upstream side of the merge point 11 (col. 4, lines 46-50). Thus, this teaches or suggests that variations (fluctuations) downstream of element 13 are absorbed by the element 13 since the mixture upstream of the element 13 is not affected by such variations, as presently claimed. Thus, pressure variations upstream and downstream of the element 13 are insulated from each other. Applicant also discusses the manner in which the Lubitzsch et al. device operates, however, this discussion does not address the presence or lack of the recited elements of the apparatus claims. Applicant also discusses many aspects of the claimed invention that from no part of the claimed subject matter. Such arguments are of no patentable consequence because it is well settled that features not claimed may not be relied upon in support of patentability. *In re Self*, 671 F.2d 1344, 213 USPQ 1 (CCPA 1982). Although a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim. Accordingly, since all of

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the recited structural elements are disclosed by Lubitzsch et al. and the language added to claim 1 relating to the back pressure valve (although not underlined) is considered met by the reference, the rejection under Section 102 is maintained.

With regard to liquids vs. gasses, Applicant should note that “[e]xpressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim.” *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, “[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims.” *In re Young*, 75 F.2d 966, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). Accordingly, the recited “liquid” is merely the contents of the apparatus during an intended operation and is of no patentable significance in the pending apparatus claims.

### ***Allowable Subject Matter***

17. Claims 5, 6, and 7/5 would be allowable **if** rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley in Art Unit 1797 whose telephone



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number is (571) 272-1139. The examiner can normally be reached on Mon-Fri.. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles E. Cooley/

Charles E. Cooley  
Primary Examiner  
Art Unit 1797

24 NOV 2009